

ment on the chains that preceded it. In some particulars it doubtless was: It left the elasticity of the spiral gold tubing more free by releasing the link from the attachment of the soldering, and it enabled the chain to be freely taken in pieces without injury to its structure. But all improvement is not invention, and entitled to protection as such. Thus to entitle it, it must be the product of some exercise of the inventive faculties, and it must involve something more than what is obvious to persons skilled in the art to which it relates.

In this case neither the tubing, nor the open spiral link formed of tubing, nor the process of making either the open or the closed link, nor the junction of closed and open spiral links in a chain, was invented by the patentee. We are, therefore, constrained to hold that the first claim of the patent, even if not void for want of novelty, is void for want of patentability.

The decree of the Circuit Court will therefore be reversed, and the cause remanded with directions to dismiss the bill.

*So ordered.*

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SCHOONMAKER v. GILMORE.

The courts of the United States, as courts of admiralty, have not exclusive jurisdiction of suits *in personam*, growing out of collisions between vessels while navigating the Ohio River.

MOTION to dismiss a writ of error to the Supreme Court of the State of Pennsylvania, to which is united a motion to affirm.

This was an action on the case, brought in the Court of Common Pleas of Allegheny County, Pennsylvania, by Gilmore against Schoonmaker & Brown, owners of the steam-tug "Jos. Bigley." The declaration avers in substance that, by reason of the negligence of the defendants, the tug, when descending the Ohio River, a few miles below Pittsburgh, collided with and damaged certain barges belonging to the plaintiff.

The point was made by the defendants that the courts of the United States have exclusive jurisdiction in cases of collision on navigable waters.

There was a judgment for the plaintiff, on the affirmance of which by the Supreme Court the defendants sued out this writ.

*Mr Alexander M. Watson* in support of the motions.

*Mr Hill Burgwin, contra.*

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

The single question in this case is, whether the courts of the United States, as courts of admiralty, have exclusive jurisdiction of suits *in personam*, growing out of collisions between vessels while navigating the Ohio River. This is a Federal question, and gives us jurisdiction, but we cannot consider it as any longer open to argument, as it was decided substantially in *The Moses Taylor*, 4 Wall. 411, *The Hine v Trevor*, id. 555, *The Belfast*, 7 id. 624, *Leon v Galceran*, 11 id. 185, and *Steamboat Company v Chase*, 16 id. 522. The Judiciary Act of 1789 (1 Stat. 73, sect. 9), reproduced in sect. 563, Rev Stat., par. 8, which confers admiralty jurisdiction on the courts of the United States, expressly saves to suitors, in all cases, the right of a common-law remedy, where the common law is competent to give it. That there always has been a remedy at common law for damages by collision at sea cannot be denied.

The motion to dismiss is overruled, and that to affirm granted.

*Judgment affirmed.*

NOTE. — *Brown v. Davidson*, error to the Supreme Court of the State of Pennsylvania, involved the same question as the preceding case. It was submitted by the same counsel and determined in the same manner.